
COMMONWEALTH OF VIRGINIA



OFFICE OF THE GOVERNOR

Executive Order 42

DECLARATION OF A STATE OF EMERGENCY DUE TO WATER SHORTAGE IN BUCHANAN AND TAZEWELL COUNTIES

On January 30, 2003 I verbally declared a state of emergency to exist due to an acute shortage of potable water in Buchanan and Tazewell Counties. The shortage was caused by the failure of the water distribution system and intensified by the extreme cold weather conditions.

The threat to the health and general welfare of the citizens of Buchanan and Tazewell Counties required that state action be taken to alleviate these conditions. I specifically authorized the purchase of water to be provided to the citizens of the localities and the resources to assist the service authority in regaining operational capability. I have also authorized local governments in the localities to require residents to limit the use of water and to provide facilities for the temporary distribution of water to the citizens.

All state agencies were directed to provide assistance in dealing with this emergency to the extent required by the Coordinator of Emergency Management in consultation with the Secretary of Public Safety, the State Health Commissioner, and others as required.

I find that the potential effects of this water shortage constitute a natural disaster wherein human life and public and private property may be imperiled, as described in §44-75.1.A.4 of the *Code of Virginia*.

Therefore, by virtue of the authority vested in me by §44-146.17 of the *Code of Virginia*, as Governor and as Director of Emergency Services, and by virtue of the authority vested in me by Article V, Section 7 of the Constitution of Virginia and by §44-75.1 of the *Code of Virginia*, as Governor and Commander-in-Chief of the armed forces of the Commonwealth, and subject always to my continuing and ultimate authority and responsibility to act in such matters, I

hereby confirm, ratify, and memorialize in writing my verbal orders issued January 30, 2003. In these verbal orders I proclaimed that a state of emergency exists in Buchanan and Tazewell Counties and directed that appropriate assistance be rendered by agencies of both state and local governments to prevent and alleviate any conditions resulting from severe water shortage caused by distribution system malfunctions and frigid temperatures, and to implement prevention and recovery operations and activities so as to alleviate impacted areas from the effects of these conditions insofar as possible. Pursuant to §44-75.1.A.3 and A.4 of the *Code of Virginia*, I also directed that the Virginia National Guard and the Virginia Defense Force be called forth to state duty, as necessary, to assist in providing such aid, to the extent required, as the Coordinator of Emergency Management, in consultation with the Secretary of Public Safety and the Adjutant General, may find necessary.

In order to marshal all public resources and appropriate preparedness, response and recovery measures to meet this potential threat and recovery from its effects, and in accordance with my authority contained in §44-146.17 of the Emergency Services and Disaster Laws, I hereby order the following prevention, protective and restoration measures:

- A. The full implementation by agencies of the state and local governments of Volume I, Virginia Emergency Operations Plan (COVEOP) Basic Plan, July 1997, as amended, along with other appropriate state agency plans.
- B. Appropriate activation of the Virginia Emergency Operations Center (VEOC) and State Emergency Response Team (SERT). Furthermore, I am directing that the VEOC and SERT coordinate state operations in support of affected localities and the Commonwealth, to include issuing mission assignments to agencies designated in the COVEOP and others that may be identified by the State Coordinator of Emergency Management, in consultation with the Secretary of Public Safety, which are needed to provide for the preservation of life, protection of property and implementation of recovery activities.
- C. The authorization to assume control over the Commonwealth's state-operated telecommunications systems, as required by the State Coordinator of Emergency Services, in coordination with the Department of Information Technology, and with the prior consent of the Secretary of Public Safety, making all systems assets available for use in providing adequate communications, intelligence and warning capabilities for the impending event, pursuant to §44-146.18 of the *Code of Virginia*.
- D. The activation, implementation and coordination of appropriate mutual aid agreements and compacts, including the Emergency Management Assistance Compact, and the authorization of the State Coordinator of Emergency Management to enter into any other supplemental agreements, pursuant to §44-146.17 (5) and §44-146.28:1 of the *Code of Virginia*, to provide for the evacuation and reception of injured and other persons and the

exchange of medical, fire, police, National Guard personnel and equipment, public utility, reconnaissance, welfare, transportation and communications personnel, and equipment and supplies. The State Coordinator of Emergency Management is hereby designated as Virginia's authorized representative within the meaning of the Emergency Management Assistance Compact, and §44-146.28:1 of the *Code of Virginia*.

- E. The authorization of the Departments of State Police, Transportation, and Motor Vehicles to grant temporary overweight, overwidth, registration, and license exemptions to carriers transporting essential emergency relief supplies into and through the Commonwealth in order to support the disaster response and recovery.

The axle and gross weights shown below are the maximum allowed, unless otherwise posted.

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| Any One Axle | 24,000 Pounds |
| Tandem Axles (more than 40 inches but not more than 96 inches spacing between axle centers) | 44,000 Pounds |
| Single Unit (2 Axles) | 44,000 Pounds |
| Single Unit (3 Axles) | 54,500 Pounds |
| Tractor-Semitrailer (4 Axles) | 64,500 Pounds |
| Tractor-Semitrailer (5 or more Axles) | 90,000 Pounds |
| Tractor-Twin Trailers (5 or more Axles) | 90,000 Pounds |
| Other Combinations (5 or more Axles) | 90,000 Pounds |
| Per Inch of Tire Width in Contact with Road Surface | 850 Pounds |

In addition to described overweight transportation privileges, carriers are also exempt from registration with Department of Motor Vehicles. This includes the vehicles enroute and returning to their home base. The above-cited agencies shall communicate this information to all staff responsible for permit issuance and truck legalization enforcement.

This authorization shall apply to hours worked by any carrier when transporting passengers, property, equipment, food, fuel, construction materials and other critical supplies to or from any portion of the Commonwealth for purpose of providing relief or assistance as a result of this disaster, pursuant to §52-8.4 of the *Code of Virginia*.

The foregoing overweight transportation privileges and the regulatory exemption provided by §52.8.4.A of the *Code of Virginia*, and implemented in 19 VAC 30-20-40.B of the "Motor Carrier Safety Regulations," shall remain in effect for sixty (60) days from the onset of the disaster, or until emergency relief is no longer necessary, as determined by the Secretary of Public Safety in consultation with the Secretary of Transportation, whichever is earlier.

- F. The discontinuance of provisions authorized in paragraph E above may be implemented and disseminated by publication of administrative notice to all affected and interested parties by the authority I hereby delegate to the Secretary of Public Safety, after consultation with other affected Cabinet-level Secretaries.
- G. The authorization of appropriate oversight boards, commissions and agencies to ease building code restrictions, and to permit emergency demolition, hazardous waste disposal, debris removal, emergency landfill siting and operations and other activities necessary to address immediate health and safety needs without regard to time-consuming procedures or formalities and without regard to application or permit fees or royalties. This state of emergency constitutes a major medical emergency under the Rules and Regulations of the Board of Health Governing Emergency Medical Services, pursuant to Article 3.01 (§32.1-111.1 et seq.) of Chapter 4 of Title 32.1, of the *Code of Virginia*, Statewide Emergency Medical Services System and Services, and exemptions specified in the Rules and Regulations regarding patient transport and provider certification in disasters apply.
- H. The implementation by public agencies under my supervision and control of their emergency assignments as directed in the COVEOP without regard to normal procedures pertaining to performance of public work, entering into contracts, incurring of obligations, or other logistical and support measures of the Emergency Services and Disaster Laws, as provided in §44-146.28 (b) of the *Code of Virginia*. Section 44-146.24 of the *Code of Virginia* also applies to the disaster activities of state agencies.
- I. Members and personnel of volunteer, auxiliary and reserve groups including search and rescue (SAR), Virginia Associations of Volunteer Rescue Squads (VAVRS), Civil Air Patrol (CAP), member organizations of the Voluntary Organizations Active in Disaster (VOAD), Radio Amateur Civil Emergency Services (RACES), volunteer fire fighters and other identified and tasked by the State Coordinator of Emergency Management for specific disaster-related mission assignments are, in the performance of those assignments, designated as representatives of the Commonwealth engaged in emergency services activities within the meaning of the immunity provisions of §44-146.23 (a) of the *Code of Virginia*.

The following conditions apply to the deployment of the Virginia National Guard and the Virginia Defense Force:

1. The Adjutant General of Virginia, after consultation with the State Coordinator of Emergency Management, shall make available on state active duty such units and members of the Virginia National Guard and Virginia Defense Force and such equipment as may be necessary

2. Pursuant to §52-6 of the *Code of Virginia*, I authorize and direct the Superintendent of State Police to appoint any and all such Virginia Army and Air National Guard personnel called to state active duty as additional police officers. These police officers shall have the same powers and perform the same duties as the regular State Police officers appointed by the Superintendent. However, they shall nevertheless remain members of the Virginia National Guard, subject to military command as members of the State Militia. Any bonds and/or insurance required by §52-7 of the *Code of Virginia* shall be provided for them at the expense of the Commonwealth.
3. In all instances, members of the Virginia National Guard and Virginia Defense Force shall remain subject to military command as prescribed by §44-78.1 of the *Code of Virginia* and not subject to the civilian authorities of county or municipal governments. This shall not be deemed to prohibit working in close cooperation with members of the Virginia Departments of State Police or Emergency Management or local law enforcement or emergency management authorities or receiving guidance from them in the performance of their duties.
4. Should service under this Executive Order result in the injury or death of any member of the Virginia National Guard, the following will be provided to the member and the member's dependents or survivors:
 - (a) Workers' Compensation benefits provided to members of the National Guard by the Virginia Workers' Compensation Act, subject to the requirements and limitations thereof; and, in addition,
 - (b) The same benefits, or their equivalent, for injury, disability and/or death, as would be provided by the federal government if the member were serving on federal active duty at the time of the injury or death. Any such federal-type benefits due to a member and his or her dependents or survivors during any calendar month shall be reduced by any payments due under the Virginia Workers' Compensation Act during the same month. If and when the time period for payment of Workers' Compensation benefits has elapsed, the member and his or her dependents or survivors shall thereafter receive full federal-type benefits for as long as they would have received such benefits if the member had been serving on federal active duty at the time of injury or death. Any federal-type benefits due shall be computed on the basis of military pay grade E-5 or the member's military grade at the time of injury or death, whichever produces the greater benefit amount. Pursuant to §44-14 of the *Code of Virginia*, and subject to the concurrence of the Board of Military Affairs, and subject to the availability of future

appropriations which may be lawfully applied to this purpose, I now approve of future expenditures out of appropriations to the Department of Military Affairs for such federal-type benefits as being manifestly for the benefit of the military service.

5. The costs incurred by the Department of Military Affairs and the Virginia Defense Force in performing these missions shall be paid out of the sum sufficient appropriation for Disaster Planning and Operations contained in Item 454 of Chapter 899, 2002 Virginia Acts of the Assembly.

The following conditions apply to service by the Virginia Defense Force:

1. Compensation shall be at a daily rate that is equivalent of base pay only for a National Guard Unit Training Assembly, commensurate with the grade and years of service of the member, not to exceed 20 years of service;
2. Lodging and meals shall be provided by the Adjutant General or reimbursed at standard state per diem rates;
3. All privately owned equipment, including, but not limited to, vehicles, boats, and aircraft, will be reimbursed for expense of fuel. Damage or loss of said equipment will be reimbursed, minus reimbursement from personal insurance, if said equipment was authorized for use by the Adjutant General in accordance with §44-54.12 of the *Code of Virginia*; and
4. In the event of death or injury, benefits shall be provided in accordance with the Virginia Workers' Compensation Act, subject to the requirements and limitations thereof.

Upon my approval, the costs incurred by state agencies and other agents in performing mission assignments through the VEOC of the Commonwealth as defined herein and in §44-146.28 of the *Code of Virginia*, other than costs defined in Item 5 of the paragraph above pertaining to the Virginia National Guard and the Virginia Defense Force, in performing these missions shall be paid out of the sum sufficient appropriation for Disaster Planning and Operations contained in Item 47 of Chapter 899, 2002 Virginia Acts of Assembly.

This Executive Order shall be effective today, and shall remain in full force and effect until June 30, 2003, unless sooner amended or rescinded by further executive order. Termination of the Executive Order is not intended to terminate any state or federal benefits granted or to be granted due to injury or death as a result of service under this Executive Order.

Given under my hand and under the Seal of the Commonwealth of Virginia, this 31st day of January 2003.

Mark R. Warner, Governor

Attest:

Secretary of the Commonwealth